

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

H & Q PROPERTIES, INC., a Nebraska
Corporation, MARK HOULTON and
JOHN QUANDAHL)

Plaintiffs,)

v.)

DAVID E. DOLL, DOUBLE D
PROPERTIES, LLC. a Nebraska limited
liability company; DDE, INC., a Nebraska
corporation, f/k/a Double D Excavating,
Inc.; HNGC, INC., a Nebraska corporation,
f/k/a Double D Hook-N-Go Containers, Inc.;
NEBRASKA LOWBOY SERVICES, INC.,
an Iowa corporation; LOAD RITE
EXCAVATING, LLC, a Nebraska limited
liability company; DOLL
CONSTRUCTION, LLC; a Nebraska
limited liability company; NEW ERA
CONSTRUCTION COMPANY, a Nebraska
corporation; MALVERN TRUST &
SAVINGS BANK, an Iowa state-chartered
bank,)

Defendants.)

Case No. 8:13-cv-38

**BRIEF IN SUPPORT OF NEW ERA
CONSTRUCTION COMPANY AND
DOLL CONSTRUCTION'S
MOTION TO DISMISS**

COMES NOW, Defendants, Doll Construction, LLC and New Era Excavation Company, by and through counsel, hereby moves this Court, pursuant to Federal Rule of Civil Procedure 12(b)(6), for an order dismissing Plaintiffs' claims against Doll Construction, LLC and New Era Excavation Company with prejudice because the Amended Complaint has failed to state a claim upon which relief can be granted against Doll Construction, LLC and New Era Excavation Company.

Defendants further move the court to take judicial notice of the documents contained within their Index of Evidence filed contemporaneously herein under Federal Rule of Evidence 201(e) as the two documents are a matter of public record on file with the Nebraska Secretary of State. Contemporaneous with this Motion to Dismiss, and Motion to Take Judicial Notice, Defendants submits a Brief in Support for this Court's review.

WHEREFORE, Defendants Doll Construction, LLC and New Era Excavation Company respectfully requests this Court to dismiss Plaintiffs' Amended Complaint with prejudice, to the extent such claims are raised against Defendants Doll Construction, LLC and New Era Excavation Company and to dismiss Doll Construction, LLC and New Era Excavation Company from this action.

Dated this 24th day of February, 2014.

DOLL CONSTRUCTION, LLC
NEW ERA EXCAVATION COMPANY, Defendants

By: /s/ William Grant Mullin

Wm. Grant Mullin # 25280

Clay Rogers # 13559

Aaron S. Smeall # 22756

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CERTIFICATE OF SERVICE

I hereby certify that on February 24, 2014, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which sent electronic notification of such filing to those parties receiving electronic notice herein.

/s/ William Grant Mullin